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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE, Plaintiff and Respondent, v. TANESHA ANDREA MONROE, Defendant and Appellant.	A145778 (San Francisco City & County Super. Ct. No. 222262, 13030754)

Defendant assaulted a grocery store cashier with a knife and was convicted of attempted murder, but she was later found not guilty by reason of insanity. Defendant challenges the admission at trial of statements she made during a police interview following her arrest, contending mental illness prevented a knowing and intelligent waiver of her *Miranda*[1] rights. We affirm.

I. BACKGROUND

Defendant was charged in an information, filed May 29, 2014, with attempted premeditated murder (Pen. Code, §§ 187, subd. (a), 664), domestic violence (*id.*, § 273.5, subd. (a)), and assault with a deadly weapon other than a firearm (*id.*, § 245, subd. (a)(1)). As to each count, it was alleged that defendant used a dangerous or deadly weapon. (Pen. Code, §§ 12022, subd. (b)(1), 1192.7, subd. (c)(23).)

The evidence at trial demonstrated that on October 29, 2013, defendant approached a grocery store cashier with whom she had a past personal relationship,

[1] *Miranda v. Arizona* (1966) 384 U.S. 436 (*Miranda*).

pressed a butcher knife to his neck from behind, and said, "You put a hex on my son." Other persons present disarmed defendant before she did any serious harm, although the victim suffered cuts to his neck and hand.

The jury found defendant guilty of attempted murder, assault with a deadly weapon, and simple battery, a lesser included offense of the charge of domestic violence, but it did not find true the allegation of premeditation. In a subsequent court trial, defendant was found not guilty by reason of insanity.

The sole issue on appeal involves the court's admission at trial of defendant's statements to police during an interview soon after her arrest. During the interview, defendant explained she and the victim were "friends" and had sexual relations on three occasions. In May 2013, several months before the assault, she concluded the victim "put a voodoo curse on us." In the course of the interview, defendant lucidly described her activities that day, culminating with the attack on the victim, and repeatedly said she intended to kill him as a result of delusional beliefs about his supernatural activities directed at her family. For example, defendant believed her daughter had trouble at school and was scared to sleep in her room because the victim "had [put] all kind of stuff in her bed." She also believed the victim, by exercising control over her son's mind, had prevented him from urinating, caused him to try to jump off the patio, and nearly drowned him in the bathtub. She told the officer the victim had put holes in her skull, tapped her cell phone, preventing her from using it, and "erased" her Comcast bill. It was clear from her statements not only that defendant heard voices in her head, including the voice of the victim, but also that she was actively hearing those voices during the interview and believed the victim was speaking to her. Defendant recognized she would have gone to jail if she was successful in killing the victim, but she felt no remorse about her attempt because "the curse is still on me . . . . It's still going on [in] my head."

It is not disputed that police gave defendant the proper warnings under *Miranda*, *supra*, 384 U.S. 436, prior to any questioning about the assault. After a relatively brief discussion at the outset of the interview of defendant's personal circumstances, the interviewing officer related the four *Miranda* advisements. After each, in response to the

officer's inquiry, defendant indicated she understood. The officer then asked defendant's permission to discuss "what happened tonight," and defendant responded affirmatively. After the officer asked for "[her] side of the story," she began describing her relationship with the victim, continuing in the manner described above.

Prior to trial, defendant made an unsuccessful motion to exclude her statements, arguing her evident mental illness and delusions made it impossible for her to knowingly and intelligently waive her rights. At the hearing on the motion, the interrogating officer testified that when the interview began, defendant appeared "like any normal person would." She was "fairly calm given the circumstances" and could engage him in conversation. He believed she understood his questions, and her answers were generally appropriate. When defendant first referred to a voodoo curse, the officer found it "shocking," since she was otherwise "articulate" and "competent."

Lisa Jeko, a forensic psychologist who had prepared two competency evaluations of defendant, testified that defendant suffered from paranoid schizophrenia and was "not capable of forming a full awareness of the nature of her *Miranda* rights" or "the consequences of a decision to abandon those rights." Dr. Jeko acknowledged schizophrenics can be delusional yet also able to make decisions, understand where they are and the nature of their conduct, and distinguish right from wrong. Yet she believed defendant did not fully understand the consequences of speaking to the officer. This belief was grounded in defendant's conduct during the interview, in which she demonstrated "impaired impulse control." As Dr. Jeko put it, "She was just talking, talking, talking." Because she was still hearing voices and believed herself to be suffering under a voodoo curse at the time of the interview, Dr. Jeko believed, defendant was unable to consider whether to request an attorney or refrain from speaking with the police. Instead, she felt a compulsion to speak about the delusions, "careening with language," because "she felt so tortured" and the nature of the delusions was "very consuming." In support of her view, Dr. Jeko noted, although defendant had no experience with the criminal justice system, she asked no questions to clarify her rights.

The trial court denied the motion to suppress, finding no "sound legal basis" for suppressing statements to police "based solely on the defendant's mental condition when there is no claim of improper police action." Assuming such a basis did exist, however, the court found Dr. Jeko's testimony to be unconvincing. During the interview, the court noted, defendant was never confused. She gave rational answers to all questions about her activities and understood what had happened that day. Although the court recognized defendant had not asked questions about the *Miranda* warnings, it noted this is "the common experience of many investigators and many cases that are reported and are seen every day in this courthouse."[2]

II. DISCUSSION

Defendant contends the trial court erroneously admitted her statements to police during the interview because her *Miranda* waiver was not knowingly and intelligently given.

"The Fifth Amendment to the United States Constitution, which applies to the states by virtue of the Fourteenth Amendment, provides that no person may be compelled to be a witness against himself or herself. [Citations.] In *Miranda*, *supra*, 384 U.S. 436, the United States Supreme Court 'adopted a set of prophylactic measures to protect a suspect's Fifth Amendment right from the "inherently compelling pressures" of custodial interrogation.' [Citation.] Pursuant to *Miranda*, a suspect 'must be warned prior to any questioning that he has the right to remain silent, that anything he says can be used against him in a court of law, that he has the right to the presence of an attorney, and that if he cannot afford an attorney one will be appointed for him prior to any questioning if he so desires.' [Citation.] [¶] It is well settled, however, that after the familiar *Miranda* advisements are given, a suspect can waive his or her constitutional rights. [Citation.] To establish a valid *Miranda* waiver, the prosecution bears the burden of establishing by a preponderance of the evidence that the waiver was knowing, intelligent, and voluntary

[2] The trial court's oral ruling was later confirmed in a thoughtful and scholarly written decision.

under the totality of the circumstances of the interrogation." (*People v. Linton* (2013) 56 Cal.4th 1146, 1170–1171.)[3]

"[A]ll that is required for a valid waiver of [*Miranda*] rights is that the defendant understand that he could stand mute, request a lawyer and that anything he did choose to say could be used against him to secure a conviction." (*People v. Clark* (1993) 5 Cal.4th 950, 991–992 (*Clark*), disapproved on other grounds in *People v. Doolin* (2009) 45 Cal.4th 390, 421 & fn. 22.) For that reason, "[u]nadorned *Miranda* warnings . . . sufficed to give defendant all the information necessary for him to make a knowing and intelligent choice to waive or invoke his right to counsel." (*Clark,* at p. 992.)

"In general, if a custodial suspect, having heard and understood a full explanation of his or her *Miranda* rights, then makes an uncompelled and uncoerced decision to talk, he or she has thereby knowingly, voluntarily, and intelligently waived them. [Citation.] Law enforcement officers are not required to obtain an express waiver of a suspect's *Miranda* rights prior to a custodial interview. [Citation.] Rather, a valid waiver of *Miranda* rights may . . . be inferred from the defendant's words and actions." (*People v. Cunningham* (2015) 61 Cal.4th 609, 642.) "A suspect's expressed willingness to answer questions after acknowledging an understanding of his or her *Miranda* rights has itself been held sufficient to constitute an implied waiver of such rights." (*People v. Sauceda-Contreras* (2013) 55 Cal.4th 203, 218–219 (*Sauceda-Contreras*).)

" 'On review of a trial court's decision on a *Miranda* issue, we accept the trial court's determination of disputed facts if supported by substantial evidence, but we independently decide whether the challenged statements were obtained in violation of *Miranda*.' " (*People v. Hensley* (2014) 59 Cal.4th 788, 809.)

Here, defendant was properly advised of her rights under *Miranda,* acknowledged her understanding of those rights, and expressed a willingness to talk to officers despite this understanding. There was no hint of coercion and no indication she failed to

[3] We agree with defendant that the issue of a knowing and intelligent waiver is separate from the issue of voluntariness. (See *People v. Smith* (2007) 40 Cal.4th 483, 501.)

understand what was said to her, either initially when the *Miranda* advisements were given or later in the interview. As the officer said, she looked "like any normal person" and engaged him in appropriate conversation. After indicating her understanding of the *Miranda* advisements, defendant agreed without hesitation to speak to police about the assault. Under *Sauceda-Contreras*, this was sufficient to demonstrate an implied waiver of her *Miranda* rights.

While it became clear during the interview defendant was suffering under delusions presumably caused by a mental illness, that alone was no basis for finding an invalid waiver. It is generally recognized that "[a] schizophrenic condition does not render a defendant incapable of effectively waiving his rights." (*People v. Watson* (1977) 75 Cal.App.3d 384, 397; see *People v. Lewis* (2001) 26 Cal.4th 334, 383–384 [where young offender, who was later diagnosed with schizophrenia, expressed no confusion about his rights and no hesitation in speaking with officers, there was no basis for finding his *Miranda* waiver invalid].)

The only evidence to suggest defendant did not knowingly and intelligently waive her *Miranda* rights was the testimony of Dr. Jeko, who opined defendant could not form a "full awareness" of the nature of her *Miranda* rights or the consequences of a decision to waive those rights. We find this testimony insufficient to demonstrate defendant's waiver was not knowing and intelligent. Although she offered the referenced opinions in conclusory form, Dr. Jeko never explained how or to what extent defendant's understanding of the *Miranda* advisements was impaired. Further, she never testified that defendant failed to understand, when she agreed to speak with the officers, that she had the right to "stand mute, request a lawyer and that anything [s]he did choose to say could be used against [her] to secure a conviction." (*Clark*, *supra*, 5 Cal.4th at pp. 991–992.) Rather, the bulk of Dr. Jeko's testimony was directed to a very different point: that defendant, as a result of her mental illness, lacked the mental or emotional capacity to resist speaking with the officers. In other words, Dr. Jeko believed, regardless of defendant's understanding of her legal rights, she was unable to take advantage of those rights by controlling the compulsion, created by her illness, to tell the officers about her

conduct and her delusions. As the trial court accurately characterized it, Dr. Jeko "focused on what she believed was [defendant's] dominant *reason* for speaking," rather than on the nature of her understanding of her legal rights. Defendant's compulsion was irrelevant to the issue of her understanding of her rights under *Miranda* and the knowing and intelligent nature of her waiver.[4]

Because we find no error in the admission of defendant's statements, it is unnecessary for us to address the issue of prejudice.

III. DISPOSITION

The judgment of the trial court is affirmed.

[4] Defendant relies on a variety of cases from federal and other state courts in arguing her case. To the extent those decisions are inconsistent with our reasoning here, we decline to follow them.

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Margulies, Acting P.J.

We concur:

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Dondero, J.

_____
Banke, J.

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